

PennAg Industries Association

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Environmental Protection Agency (EPA)

Attention: *Backstop TMDL for States within Chesapeake Bay*
Docket Number: EPA-R03-OW-2010-0736

On behalf of PennAg Industries Association and the more than 600 Pennsylvania agribusinesses we represent, we are insulted that EPA would unveil a Backstop TMDL as a threat and consequence to Pennsylvania. Pennsylvania was proactive in devising a holistic approach to meeting our Chesapeake Bay obligations that included a united voice from the agriculture community, the urban sector as well as the wastewater treatment community.

Understanding that the Backstop TMDL requires comments to be filed before the States have the ability to resubmit revised WIP's, there are several comments we would like to have on record.

1. The September 2010 PA WIP was crafted using the best guidance available at the time of preparation. When the PA WIP process began, the citizens, stakeholder groups and the Department of Environmental Protection (DEP) looked to EPA for guidance in crafting the WIP. Throughout the process, EPA was and continues to be less than forthcoming and purposefully vague in their response to DEP and various DEP workgroups that have been established. In order for the State to develop a plan that is both realistic and accountable to the overall goal of restoring the Bay, EPA should have assumed a more proactive role in identifying solutions to the questions and problems. This includes but is not limited to challenges with the "Model". The model is both flawed in how data is collected as well as how data is assigned to categories. One example of this is the inability to report multiple best management practices on the same acre of land.
2. Chesapeake Bay Restoration will not occur without a strong financial commitment at both the State and Federal level. Several years ago, the Tributary Strategy identified the need for \$215 million annually. Pennsylvania has faced budget cuts in many sectors. Pennsylvania Legislators will be encouraged to establish dedicated funding to the Commonwealth's restoration efforts, possible portal of funds could be from Marcellus Shale; Gaming Revenue and/or enhancing the REAP Tax Credit Program to capture Bay restoration projects. The funding is needed for projects, education and outreach, staffing, inspections and enforcement actions.
3. Pennsylvania Legislators, Regulators and citizens know what is best for the Commonwealth. The State must devise a plan to do our share in restoring the Bay. The Federal Government does not know what is best for Pennsylvania Citizens nor businesses operating within the Commonwealth. The threat of a "Backstop TMDL" being imposed by EPA is disrespectful to the accomplishments already achieved in Pennsylvania.
4. We support the Department of Environmental Protection plans to provide greater detail in the WIP that will ensure all farming operations within the State meet baseline compliance with current rules and regulations. This is a size neutral/species neutral issue. In recent months, various revisions have occurred to Chapter 102 – Erosion and Sedimentation for agriculture; the Manure

Management Manual; Nutrient Trading. All will have a major role to play in cleaning the waters of the Chesapeake.

5. The Pennsylvania Nutrient Trading Program was the first of its kind. To date, trades and commitments have been made based on this existing program. EPA should look to this as the model and use it. Rather than change it or develop another system. EPA needs to support the Pennsylvania Nutrient Trading and Offset Program. With the understanding that trading among States will be necessary to obtain overall compliance with the Chesapeake Bay restoration efforts.
6. We support DEP in its efforts to account for the non cost shared best management practices occurring. This will be outlined in greater detail in the revised WIP however it will include issues such as Legacy Sediment and the pilot project in Bradford County and Lancaster County. In the past, there have been a hesitation by EPA in accepting this data as verifiable and creditable. If EPA is serious about Bay restoration – EPA must include non-traditional methods of data collection and data source providers. EPA must also understand that 100% verification is not feasible. EPA needs to relay on a methodology that is reliable, defensible and provides reasonable assurance
7. We do not support the notion of increasing NPDES permitted activities obligation to Bay restoration. In our experience, requiring a majority of farming operations to obtain a CAFO will not yield a clean Chesapeake. Permits and paperwork do not equal clean water. People and Practices will restore the Bay.
8. We support the State focusing on the Core 4 practices while exploring alternative technologies. Alternative technologies must remain an option to consider – not a requirement on new and expansion projects. EPA must recognize the tremendous cost associated with some of the technologies and the difficulties in obtaining financing to cash flow the project.
9. We support the State and USDA-NRCS expanding the projects and practices that can be covered to gain on overall improvement to water quality.

Pennsylvania recognizes the need for clean water, healthy streams and fresh air. This is essential to our livelihoods and our future. Therefore, we have a vested interest in our assignment to restore the Bay.

We expect EPA to allow the individual States the flexibility and freedom to construct a plan that is best for that State. We look forward to working with our State and DEP and the various stakeholder groups to ensure the path for Pennsylvania includes a road that allows for growth and expansion, financial prosperity and a clean environment for future generations of stewards.

Sincerely,

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